

Internship Compliance...

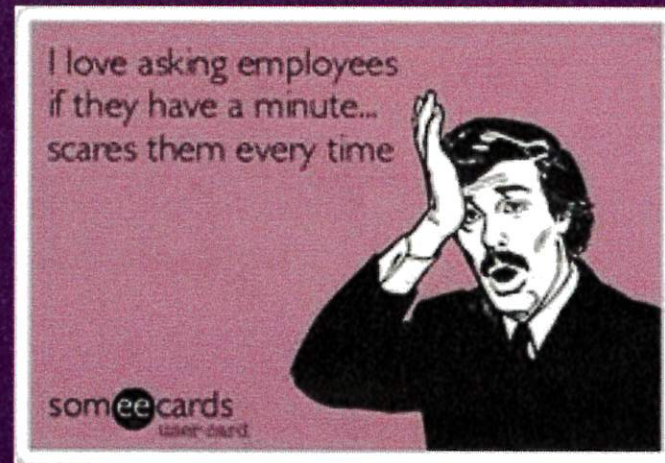
When you can turn "It Depends" and "No" into "Yes"!!

Introduction

Benefits
vs
Risks

Internship
Compliance

So now
what?



What my
Parents
think I do:

What my
friends think
I do:

What City-
Slickers
think I do:

What my
Boss thinks I
do:

What my
employees
think I do:

Melissa Yergensen – MSHRM, SPHR, IPMA-SCP is the Human Resources Director for Duchesne County. Melissa specializes in public sector human resources and has expertise in compliance, employment law, personnel policy and employee relations.

What
society
thinks I do:

Melissa Yergensen graduated with her Bachelor's Degree in Psychology in 2012 and earned her Master's Degree in Human Resource Management in 2018. She is certified through the Human Resources Certification Institute as a Senior Professional in Human Resources (SPHR) and with the International Public Management Association – HR as a Senior Certified Professional (IPMA-SCP). Melissa was also just accepted into a Master's in Legal Studies program at Washington University School of Law.

What I
actually
do!

When Melissa is not geeking-out over everything human resources, she is spending time with her husband and 3 active teenage boys. Together they enjoy traveling and searching for the best roller-coaster in the world, visiting the coolest BMX bike parks and sitting on the beach.



Internships: Why?

Definitions

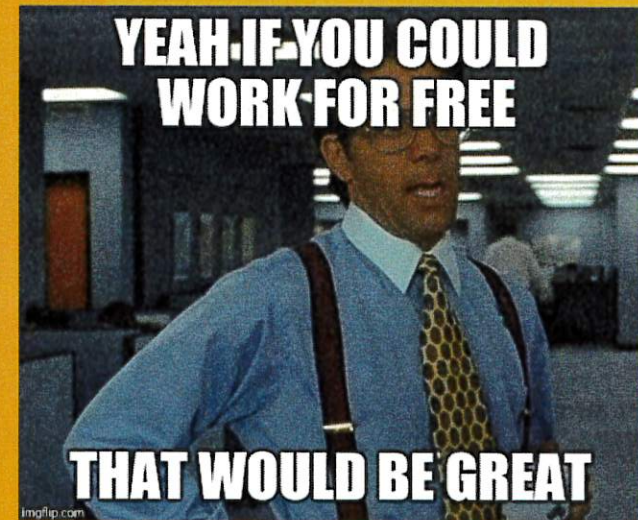
Benefits

Risks



Definitions:

- Internship: "The position of a student or trainee who works in an organization, sometimes without pay, in order to gain work experience or satisfy requirements for a qualification."
- Job Shadow: Learning about a job through observation. Generally without completing tasks.
- Volunteer: A volunteer generally will not be considered an employee for FLSA purposes if the individual volunteers freely for public service, religious or humanitarian objectives, and without contemplation or receipt of compensation.



Business Case for Employers:

- Cheap / Free Labor - Kind-of! (**See Compliance Slides**)
- Creates a Labor Pool for recruiting efforts
- Opportunity to evaluate KSAs before hiring
- Brand Recognition
 - Positive media / word of mouth advertising
- Key component of your agency's diversity efforts

Benefits for
the Intern

Why would anyone work for free?

- Gain in real-world experience in the industry / profession
- Gain realistic expectations about workplace demands
- Academic Credit
- Resume Building
- Job Networking

A summer internship is a great way to learn how people at a company pretend to work.

someecards



Risks of Internships:

- Wage and Hour Compliance
 - Labor Laws for underage workers
 - Wage Regulations for Paid Internships
 - Unpaid Internships - FLSA & the Primary Beneficiary Rule
- Discrimination
 - Title VII
 - AGE - Older applicants must be given the same opportunities for internships

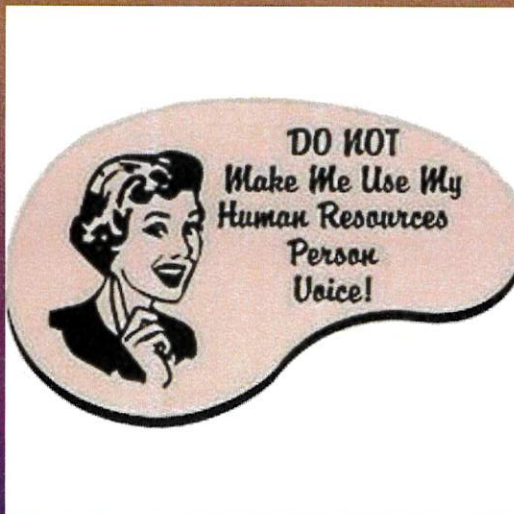
The rules you NEED to know!

Labor Laws
&
Age
Requirements

Paid
Internship
Compliance

Unpaid
Internship
Compliance

Document
Everything



Fair Labor Standards Act (FLSA) & Utah State Code on Age...

- As a general rule, the FLSA sets 14 years old as the minimum age for employment, and limits the number of hours worked by minors under the age of 16.
- Utah Code 34-23-101 Employment of Minors
 - Hazardous work is PROHIBITED
 - FLSA defines hazardous as "occupations are excavation, manufacturing explosives, mining, and operating many types of power-driven equipment."

Requirements
By
Age

14 Years Old

=14

Minors 14 years of age or older may work in a wide variety of nonhazardous occupations including:

- (a) retail food services;
 - (b) automobile service stations, except for the operation of motor vehicles and the use of hoists;
 - (c) public messenger service;
 - (d) janitorial and custodial service;
 - (e) lawn care;
 - (f) the use of approved types of vacuum cleaners, floor polishers, power lawn mowers, and sidewalk snow removal equipment; and
 - (g) other similar work as approved by the division.
- (2) Minors 14 years of age or older may also work in nonhazardous areas in manufacturing, warehousing and storage, construction, and other such areas not determined harmful by the division.

>16

Employment of minors under 16 during school hours -- Hours of work limited.

(1) A minor under the age of 16 may not be employed or permitted to work during school hours except as authorized by the proper school authorities.

(2) A minor under the age of 16 may not be permitted to work:

- (a) before or after school in excess of four hours a day;
- (b) before 5:00 a.m. or after 9:30 p.m., unless the next day is not a school day;
- (c) in excess of eight hours in any 24-hour period; or
- (d) more than 40 hours in any week.

>16 Years Old

16 Years Old

=16

Minors 16 years of age or older may work:

- (1) in all occupations not declared hazardous; and
- (2) in occupations which involve the use of motor vehicles if the minor is licensed to operate the motor vehicle for employment purposes under state law.

Paid Internships...Wage and Hour Regulations

- Paid Internships MUST comply with federal and state wage and hour requirements
 - Paid Interns must have a wage no-less than Utah's set minimum wage = \$7.25 / hour
 - Any hours worked over 40/week (if the intern is 16 yrs or older) MUST be paid at no less than 1.5 times their hourly rate.



Unpaid Internship Compliance

- The FLSA requires “for-profit” employers to pay employees for their work. Interns and students, however, may not be “employees” under the FLSA—in which case the FLSA does not require compensation for their work.
- Courts have used the “primary beneficiary test” to determine whether an intern or student is, in fact, an employee under the FLSA.

Primary
Beneficiary
Test

Beneficiary Test:

- Employer and intern CLEARLY understand that there is no expectation of compensation
- Internships provides training that would be similar to that given in an educational environment
- The extent to which the internship is tied to the intern's formal education program by integrating coursework or academic credit
- The extent to which the internship accommodates the intern's academic commitments
- The duration on the internship is limited
- The extent to which the intern's work complements, rather than displaces, the work of paid employees
- The extend to which the intern and employer understand that the internship is conducted without entitlement to a paid job at its conclusion

Glatt v. Fox
Searchlight
Pictures Inc.

Case Law Example

One of the cases instrumental in creating the test is *Glatt v. Fox Searchlight Pictures Inc.*, in which the plaintiffs claimed that the movie studio violated the Fair Labor Standards Act (FLSA) by not paying them for their labor. Glatt, for example, contended that he “worked from approximately 9:00 a.m. to 7:00 p.m. five days a week. As an accounting intern, [his] responsibilities included copying, scanning, and filing documents; tracking purchase orders; transporting paperwork and items to and from the Black Swan set; maintaining employee personnel files; and answering questions about the accounting department.” After reviewing such evidence, the appellate court observed that “employers can...exploit unpaid interns by using their free labor without providing them with an appreciable benefit in education or experience.”

HR Rule #1: Document EVERYTHING

- Employer / Intern Letter
- Detailed letter from the educational institute
- Project Details & Milestones
- Academic credit received
- Project capstone / completion summary



Can I have an Intern?...

1. Understand the labor laws that apply to what you're being asked for.
 - a. How old is the student? What rules apply?
 - b. Is it paid or unpaid? If unpaid, will it pass the primary beneficiary test?
2. Have something in writing.
 - a. Description of the internship and type of work
 - b. Agreement between the school (if any) and employer AND the student/ intern
 - c. Document the primary beneficiary test requirements and HOW the proposal meets the guidelines if unpaid
 - d. Goals, Milestones and Project Completion

Source
An
Intern

Resources for and regarding Intern Recruitment:

- Careful now!...Only recruit for PROJECT based work
 - Advertise like any other job - Avoid age discrimination
 - DOCUMENT and CLEARLY state compensation - if any AND how, if unpaid, it meets the primary beneficiary test
- Local School Districts - Internship Coordinators
- Colleges / Universities

When
it
Works

When it works...

- HR - Compensation Study & Pay Plan
- I.T. - Networking Project
- Clerk / Auditor - Elections
- Grant Managers - Drafting new grant proposal
- Attorney - Big Case or Upcoming Trial / Research
- Travel / Tourism - Organizing annual community event

THE
END

THE END

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